

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, ex rel.)	
State Engineer,)	No. 69 CV 07941 MV/KK
)	
Plaintiff,)	Rio Chama Adjudication
)	
v.)	Pueblo Claims Subproceeding 1
)	
ROMAN ARAGON, et al.,)	
)	
Defendants.)	
_____)	

JOINT STATUS REPORT

Pursuant to this Court’s Order of June 12, 2018 (Document 11348), the undersigned Parties submit this Joint Status Report. The Parties are discussing possible resolution of all Ohkay Owingeh’s water rights claims to all sources of water. As a result, this Joint Status Report is being filed simultaneously in the companion case styled *State of New Mexico ex rel. State Engineer v. Abbott*, No. 68-cv-07488 (MV/JHR).

1. Settlement Negotiations

Since the last status report filed on June 8, 2018, Ohkay Owingeh and the settlement parties have continued to work towards a resolution of the Pueblo’s water rights claims. During this period, Ohkay Owingeh has focused on the investigation and analyses of water delivery systems necessary to satisfy the amounts of groundwater and surface water to be quantified in the settlement agreement and final decree. The Pueblo’s discussions with some of the settlement parties and their consultants have included, among other issues, the scope of the Pueblo’s irrigation water right; measures to address shortages of water among some of the settlement

parties; and measures to achieve the goal of finality and certainty for all of the Pueblo's water rights.

Ohkay Owingeh had meetings with one or more of the negotiating Parties on the following dates:

June 27:	Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team
July 9:	Telephonic meeting among certain settlement parties
July 26:	In-person meeting among certain settlement parties
July 27:	In-person meeting among attorneys for certain settlement parties
August 14:	Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team
August 21:	Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team
September 18:	In-person meeting among certain acequias settlement parties, the Federal Assessment Team and the Bureau of Reclamation
October 22:	In-person meeting between Ohkay Owingeh, the Federal Assessment Team and the Bureau of Reclamation
November 5:	Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team
November 30:	Telephonic meeting among certain settlement parties
December 6:	Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team

In addition, counsel for Ohkay Owingeh have met frequently with the Pueblo's leadership, staff and expert consultants to discuss the development and analysis of data for, and the nature of settlement proposals.

Regarding the Parties' expectations of the timing of a settlement agreement, as previously reported, it is expected that the compilation and analyses of technical data and studies necessary

to facilitate the settlement will be completed. Ohkay Owingeh and the United States are currently engaged in ten such technical studies. An additional study addresses non-Indian and regional water interests. It is anticipated that the groundwater model necessary to reach a settlement and to administer its terms will be completed by December 2019. Negotiations on issues that do not require technical data and/or analyses will continue as the technical studies are being completed. Depending in part on the status of the technical studies, the Parties anticipate that significant negotiations will occur in 2019 and extend into 2020. At the same time, the other parties will need time to review the information provided and positions taken, to consult with their technical consultants, and, if necessary, to conduct their own studies. The Parties believe that progress on all of the outstanding issues would be facilitated by the assistance of a professional facilitator, and some of the Parties are actively discussing this step.

2. Scheduling Dispositive Motions

The resumption of litigation would hamper the negotiating Parties' efforts to resolve Ohkay Owingeh's water rights claims through negotiations. The undersigned Parties are committed to continuing the negotiation process. As a result, the undersigned Parties do not anticipate the need for the Court to schedule the filing and briefing of motions for summary judgment or other dispositive motions within the next six months.

3. Rescheduling the Trial

For the same reasons, the undersigned Parties do not believe that the trial should be scheduled at this time.

4. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report six months from now, on June 10, 2019, at which time they will report to the Court on their progress and on the question of whether they believe the Court should schedule dispositive motions or otherwise resume litigation.

The City of Española declined to sign this Joint Status Report.

Dated: December 10, 2018

Respectfully submitted,

/s/ Curtis G. Berkey

Attorneys for Ohkay Owingeh

Curtis G. Berkey (CA State Bar No. 195485)
Scott W. Williams (CA State Bar No. 097966)
Berkey Williams LLP
2030 Addison Street, Suite 410
Berkeley, California 94704
E-mail: cberkey@berkeywilliams.com
E-mail: swilliams@berkeywilliams.com

Lee Bergen
Bergen Law Offices, LLC
4110 Wolcott Avenue NE, Suite A
Albuquerque, New Mexico 87109
leebergen@nativeamericanlawyers.com

Attorney for the United States

/s/ Bradley Bridgewater

Bradley Bridgewater
U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
Bradley.S.Bridgewater@usdoj.gov

Attorneys for State of New Mexico

/s/ Arianne Singer

Arianne Singer
Kelly Brooks Smith
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
arianne.singer@state.nm.us
kelly.smith@state.nm.us

**Attorneys for Rio Chama Acéquia
Association**

/s/ Seth R. Fullerton

Seth R. Fullerton
Katz Herdman MacGillivray & Fullerton PC
P. O. Box 250
Santa Fe, NM 87504-0250
srf@santafelawgroup.com

**Attorneys for El Rito Ditch Association
and its acéquia members; Gallina-
Capulin Acéquia Association and its
acequia members; La Asociacion de las
Acéquias del Rio Tusas, Vallecitos y Ojo
Caliente and its acéquia members**

/s/ Mary E. Humphrey

Mary E. Humphrey
Connie Odé
Humphrey & Odé, PC
P.O. Box 1574
El Prado, NM 87529
humphrey@newmex.com
code@newmex.com

**Attorneys for Asociación de Acéquias
Norteñas de Rio Arriba**

/s/ John W. Utton

John W. Utton
Utton & Kery, PA
P. O. Box 2386
Santa Fe, NM 87504-2386
john@uttonkery.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of December 2018, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Curtis G. Berkey

Curtis G. Berkey